Attn: Director, Corporate Tax Unit, Corporate and International Tax Division, Treasury

Dear Director,

I'm responding to your request for consultation regarding *Clarifying crypto not taxed as foreign currency*.

I have thoughts on the subject of cryptocurrency taxation in Australia generally that are probably not exactly aligned with this consultation. However, I would like to put forward these thoughts nonetheless – I believe cryptocurrency to cryptocurrency transactions should not be subject to capital gains tax in Australia.

Instead, I believe that capital gains tax should only apply when someone converts a cryptocurrency back into Australian dollars (or any other fiat currency).

This could be done via tracing back to the amount of Australian dollars that was originally put in to eventually achieve the amount that was brought back out.

The reasons that I believe cryptocurrency to cryptocurrency transactions should not be subject to capital gains tax include:

1. It's unfair to expect someone to pay tax in Australian dollars for the sale of an asset where they did not receive Australian dollars for the proceeds of the sale.

This might be slightly fairer if someone could pay their tax in the cryptocurrency proceeds rather than in Australian dollars.

If they don't already have Australian dollars to pay the tax, the person would need to make an additional transaction to convert some of the cryptocurrency proceeds into Australian dollars in order to pay the tax. This is unfair.

2. The proceeds the person receives (in cryptocurrency) may vary in price significantly from the time the transaction is made to the time they get around to arranging the tax payment. In many cases, the cryptocurrency that the proceeds are in may go down in value significantly to the point that the person is in significant debt to pay the tax bill. This is unfair, and may unnecessarily force Australians into financial distress.

3. When someone may make many cryptocurrency transactions, it can become very difficult (both for the person and for the ATO) to actually keep accurate track of all aspects, which may include:

- Converting values from US dollars (that most cryptocurrencies are regularly priced in) to Australian dollars.

- Keeping track of fees paid (where these are also paid in cryptocurrencies, so they themselves technically attract capital gains tax). Often such transaction fees are paid in cryptocurrencies that are different to the cryptocurrencies involved in the transaction (e.g. Bitcoin being bought/sold on Binance, where the transaction fee is paid in the Binance token). Often fees are of low value, but would still technically attract capital gains tax nonetheless.

4. I suspect the ATO would have difficulty trying to prove/disprove a cryptocurrency to cryptocurrency transaction that a tax-payer declares or doesn't declare. I know that many exchanges only keep records for a certain period of time, and some exchanges may exist for a period of time, and then cease to exist.

Where someone makes many transactions (sometimes on a daily basis), it would be nearly impossible for the ATO to try to prove/disprove them all.

5. Many countries in the world (including Western countries like Germany) do not apply capital gains tax at all to most cryptocurrency transactions (probably for many of reasons I've outlined above). I'm not suggesting that Australia doesn't apply capital gains tax to cryptocurrency transactions at all – I'm just suggesting that it's made simpler (both for the public and for the ATO) to only apply CGT when cryptocurrency is converted back to Australian dollars.

Yours sincerely,

Sean O'Brien